

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DILKA MURILLO-ROMAN,

Plaintiff,

-against-

THE PENSION BOARDS-UNITED
CHURCH OF CHRIST a/k/a THE ANNUIT
FUND-UNITED CHURCH OF CHRIST,
JOHN LIZNEY, and CAMILIA HUGGINS,

Defendants.

22-cv-08365 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

On September 30, 2022, this action was removed from the Supreme Court of the State of New York, New York County, by Defendant The Pension Boards-United Church of Christ, Inc. (“Pension Boards”). *See* ECF No. 1.

A civil action may not be removed unless “all defendants who have been properly joined and served . . . join in or consent to the removal of the action.” 28 U.S.C. § 1146(b)(2)(A); *accord Pietrangelo v. Alvas Corp.*, 686 F.3d 62, 66 (2d Cir. 2012). Defendants who do not join in the removal “must independently express their consent to removal.” *Id.* A defendant must file a notice of removal within thirty days of receiving the initial pleading or summons, “if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” 28 U.S.C. § 1146(b)(1). Within that time, all defendants who have been “properly joined and served” must consent to the removal to federal court. *Id.*; *see Taylor v. Medtronic, Inc.*, 15 F.4th 148, 151 (2d Cir. 2021).

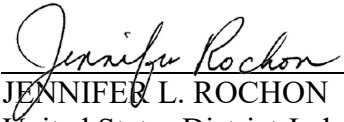
There is no indication in the record presently that Defendants John Lizney and Camilia Huggins join in or consent to removal. While removal generally requires the unanimous consent of all defendants, there is an exception when “the non-joining defendants have not been served

with service of process at the time the removal petition is filed” *Varela v. Flintlock Const., Inc.*, 148 F. Supp. 2d 297, 300 (S.D.N.Y. 2001).

Accordingly, no later than **October 13, 2022**, Plaintiff is ordered to file an affidavit testifying whether she has properly served Defendants John Lizney and Camilia Huggins, attaching proof of the same.

Dated: October 5, 2022
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge